

REMARKS

Information Disclosure Statement

In paragraph 9 of the Office Action, on page 6, the Examiner indicates that an Information Disclosure Statement was filed on August 8, 2001. Applicant respectfully requests that the Examiner forward such an indication to the Attorney of Record so the Attorney of Record may attempt to locate such an Information Disclosure Statement. At the present time, the Attorney of Record does not have a copy of an Information Disclosure Statement filed on August 8, 2001 nor does he have any indication that such an Information Disclosure Statement was filed.

Clarification as to a Restriction or Election Requirement

The Office Action indicates that claim 26 has been allowed. The Office Action Summary Sheet also indicates that claim 26 is subject to a Restriction or Election Requirement. Applicant believes this Restriction Requirement is in error and requests that the Examiner acknowledge that claim 26 has been allowed and is not subject to a Restriction or Election Requirement.

The Objections to Claims 9, 13 and 24

Applicant wishes to thank the Examiner for indicating that claims 9, 13 and 24 would be allowable if rewritten in independent form to include all the features of the base claim and any intervening claims. Applicant notes that new claims 27-29 represent rewritten claims 9, 13 and 24 as suggested by the Examiner.

Allowed Claim 26

As indicated above, Applicant wishes to thank the Examiner for indicating that claim 26 is allowable.

The Section 102 and 103 Rejections

Claims 1, 10, 11, 15, 18 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by Davarian, U.S. Patent No. 4,675,880 ("Davarian"). Claims 2, 5, 6, 16 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davarian in further view of Bruene, U.S. Patent No. 4,302,844 ("Bruene"). Claims 3, 12, 17, 20 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davarian in further view of Sieben et al., U.S. Patent No. 5,880,870 ("Sieben"). Claims 7, 8 12, 14 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davarian in view of Sieben and in further view of Mahgerefteh, U.S. Patent No. 6,046,841 ("Mahgerefteh"). Applicant respectfully disagrees and traverses these rejections for at least the reasons set forth below.

Each of the claims of the present invention requires the generation of at least one operating parameter carrier (e.g., a carrier signal) that has a frequency value in the vicinity of a null of a data spectrum of the data signal, where the null is associated with a data rate bit period. It is respectfully submitted that Davarian does not disclose or suggest such a null.

Instead, the null disclosed in Davarian is not associated with a data rate bit period. The null in Davarian appears to be created by encoding a data

signal such that a DC component of the signal is suppressed to zero. A so-created null is not associated with a data rate bit period as is required by the claims of the present invention.

In addition, each of the claims of the present invention requires that an "operating parameter" carrier is generated. The generation of such a carrier is not disclosed or suggested in Davarian. Instead, the carrier generated in Davarian relates to a calibration pilot tone, not to operating parameters, as is required by each of the claims of the present invention.

Accordingly, Applicant respectfully submits that because Davarian does not disclose each and every element of the present invention, Davarian cannot anticipate claims of the present invention.

With respect to the §103 rejections, Applicant respectfully submits that none of the references overcome the deficiencies of Davarian discussed above. Therefore, Applicant respectfully submits that the claims of the present invention would not have been obvious to one of ordinary skill in the art at the time the application was filed based on the disclosures of Davarian, taken separately or in combination with any of the references.

Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1-29.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, Dickey, & PIERCE, P.L.C.

By

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